

Amend Section 22979.2 of the Business and Professions Code to include imported cigarettes when computing the administration fee for manufacturers and importers that begin operations after January 1, 2004. (Housekeeping)

Source: Excise Taxes Division

Existing Law:

Under current law, Section 22979.2 of the Business and Professions Code requires that, **on or before January 1, 2004**, every manufacturer and every importer pay to the Board of Equalization (Board) an administration fee. The amount of the administration fee is one cent (\$0.01) per package of cigarettes (1) manufactured or imported by the manufacturer or the importer and (2) shipped into this state during the 2001 calendar year as reported to the Board.

All manufacturers and all importers that begin operations in the state **after January 1, 2004** are charged a fee commensurate with their respective market share of (1) *cigarettes manufactured or imported by the manufacturer* and (2) sold in this state during the next calendar year as estimated by the Board. The amount of the fee may not be less than that paid by the smallest manufacturer that began operations prior to January 1, 2004, but may not be more than that paid by the eighth largest manufacturer.

The calculation of the administration fee for importers that begin operations after January 1, 2004 is not consistent with the calculation for importers that began operations on or before January 1, 2004. The fee calculation for manufacturers and importers that begin operations after January 1, 2004 does not consider cigarettes manufactured or imported by the importer.

This Proposal:

This proposal would correct an inadvertent drafting error to clarify that cigarettes manufactured or imported by the importer would be used to compute the administration fee for importers that begin operations after January 1, 2004. This would be consistent with the computation of the fee for importers that commence business on or before January 1, 2004.

Section 22979.2 of the Business and Professions Code is amended to read:

22979.2. (a) On or before January 1, 2004, every manufacturer and every importer shall pay to the board an administration fee. The amount of the administration fee shall be one cent (\$0.01) per package of cigarettes (1) manufactured or imported by the manufacturer or the importer and (2) shipped into this state during the 2001 calendar year as reported to the board.

The board shall notify each manufacturer and each importer of the amount due under this section.

(b) This section shall apply to every manufacturer and every importer required to be licensed pursuant to Section 22979. All manufacturers and all importers that may become eligible for licensure on or after December 1, 2003, shall be notified by the board of the appropriate fee due and shall pay that fee within 90 days of notification.

(c) All manufacturers and all importers that begin operations in the state after enactment of this division shall be charged a fee commensurate with their respective market share of (1) cigarettes manufactured or imported by the manufacturer or the importer and (2) sold in this state during the next calendar year as estimated by the board. The fee shall be at an amount not less than that paid pursuant to subdivision (a) by the smallest manufacturer, but may not be more than that paid by the eighth largest manufacturer.

(d) The board shall administer this fee in accordance with the Fee Collection Procedures Law, Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.